

(2) For issuance of a license subsequent to a radio station authorization or, pending application for a grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license;

(3) For temporary authorization pursuant to § 27.314;

(4) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 (47 U.S.C. section 308(a));

(5) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(6) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

§ 27.317 Dismissal and return of applications.

(a) Any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to designation for hearing or, in the case of applications filed on Forms 175 and 175-S, prior to auction. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Applicants requesting dismissal of their applications are also subject to § 27.203.

(b) A request to dismiss an application without prejudice will be considered after designation for hearing only if:

(1) A written petition is submitted to the Commission and is properly served upon all parties of record; and

(2) The petition complies with the provisions of this section and demonstrates good cause.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal shall be without prejudice if made prior to designation for hearing or prior to auction, but dismissal may be made with prejudice for unsatisfactory compli-

ance or after designation for hearing or after the applicant is notified that it is the winning bidder under the auction process.

§ 27.319 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) Applicability. Subject to the provisions of § 27.204 (Bidding Application and Certification Procedures; Prohibition of Collusion), this section applies to applicants and all other parties interested in pending applications who wish to resolve contested matters among themselves with a formal or an informal agreement or understanding. This section applies only when the agreement or understanding will result in:

(1) A major change in the ownership of an applicant to which §§ 27.313(c) and 27.313(g) apply or which would cause the applicant to lose its status as a designated entity under § 27.210(b), or

(2) The individual or mutual withdrawal, amendment or dismissal of any pending application, amendment, petition or other pleading.

(b) The provisions of § 27.207 will apply in the event of the filing of petitions to deny or other pleadings or informal objections filed against WCS applications. The provisions of § 27.317 will apply in the event of dismissal of WCS applications.

§ 27.320 Opposition to applications.

(a) Petitions to deny (including petitions for other forms of relief) and responsive pleadings for Commission consideration must comply with § 27.207 and must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers and radio service involved) with which it is concerned;

(2) Be filed in accordance with the pleading limitations, filing periods, and other applicable provisions of §§ 1.41 through 1.52 of this chapter except where otherwise provided in § 27.207;

(3) Contain specific allegations of fact which, except for facts of which official notice may be taken, shall be supported by affidavit of a person or

persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest;

(4) Be filed within five (5) days after the date of public notice announcing the acceptance for filing of any such application or major amendment thereto (unless the Commission otherwise extends the filing deadline); and

(5) Contain a certificate of service showing that it has been hand delivered to the applicant no later than the date of filing thereof with the Commission.

(b) A petition to deny a major amendment to a previously filed application may only raise matters directly related to the amendment which could not have been raised in connection with the underlying, previously filed application. This does not apply to petitioners who gain standing because of the major amendment.

(c) Parties who file frivolous petitions to deny may be subject to sanctions including monetary forfeitures, license revocation, if they are FCC licensees, and may be prohibited from participating in future auctions.

§ 27.321 Mutually exclusive applications.

(a) Two or more pending applications are mutually exclusive if the grant of one application would effectively preclude the grant of one or more of the others under the Commission's rules governing the Wireless Communications Services involved. The Commission uses the general procedures in this section for processing mutually exclusive applications in the Wireless Communications Services.

(b) An application will be entitled to comparative consideration with one or more conflicting applications only if the Commission determines that such comparative consideration will serve the public interest.

§ 27.322 Consideration of applications.

(a) Applications for an instrument of authorization will be granted if, upon examination of the application and

upon consideration of such other matters as it may officially notice, the Commission finds that the grant will serve the public interest, convenience, and necessity. See also § 1.2108 of this chapter.

(b) The grant shall be without a formal hearing if, upon consideration of the application, any pleadings or objections filed, or other matters which may be officially noticed, the Commission finds that:

(1) The application is acceptable for filing, and is in accordance with the Commission's rules, regulations, and other requirements;

(2) The application is not subject to a post-auction hearing or to comparative consideration pursuant to § 27.322 with another application(s);

(3) The applicant certifies that the operation of the proposed facility would not cause harmful electromagnetic interference to another authorized station;

(4) There are no substantial and material questions of fact presented; and

(5) The applicant is qualified under current FCC regulations and policies.

(c) If the Commission should grant without a formal hearing an application for an instrument of authorization which is subject to a petition to deny filed in accordance with § 27.319, the Commission will deny the petition by the issuance of a concise statement for the reason(s) for the denial and dispose of all substantial issues raised by the petition.

(d) Whenever the Commission, without a formal hearing, grants any application in part, or subject to any terms or conditions other than those normally applied to applications of the same type, it shall inform the applicant of the reasons therefor, and the grant shall be considered final unless the Commission should revise its action (either by granting the application as originally requested, or by designating the application for a formal evidentiary hearing) in response to a petition for reconsideration which:

(1) Is filed by the applicant within thirty (30) days from the date of the letter or order giving the reasons for the partial or conditioned grant;

(2) Rejects the grant as made and explains the reasons why the application